Supreme Court of Ohio

Rules of Practice

January Term, A. D. 1921

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Supreme Court of Ohio

Rules of Practice

January Term, A. D. 1921

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SUPREME COURT OF OHIO.

JANUARY TERM, A. D. 1921.

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SUPREME COURT OF OHIO.

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Supreme Court—Rules of Practice

Rules Peeuliar to the Business of the Supreme Court

RULE 1.

SESSIONS IN TERM.

The regular public sessions of the Supreme Court shall be held in the Supreme Court Room, in the Capitol, on Tuesday and Thursday of every week during the term of the Court, commencing at 9:00 o'clock a. m., standard time, on Tuesdays, and 9:00 o'clock a. m. standard time, on Thursdays, and on other days of the week by special assignment, as the convenience of the business may require.

The sessions of the Consultation Room shall be between the hours of 9:00 o'clock a. m. and 4:30 o'clock p. m., standard time.

RULE II.

ORDER OF BUSINESS.

The business of the General Docket shall be proceeded in as follows:

SECTION 1. It is hereby made the duty of the plaintiff, or party holding the affirmative, within seventy days after the filing of the petition in error, to have filed with the Clerk twelve printed copies of a brief or argument thereon, printed and in size and form complying with the provisions of Rule IV., as amended, containing a statement of the questions

presented and a succinct statement of so much of the cause, referring to the pages of the printed record, as is necessary to show how the questions arise, and indicating the headings and points made, as required by Rule IV., as amended, and whenever the constitutionality or construction of a statute is involved the brief shall contain a copy of such statute; and for want of such printed copies being so filed unless good reason be shown to the contrary the cause will be dismissed for want of prosecution, or otherwise disposed of at the discretion of the Court, as required by Rule IV., as amended.

SECTION 2. It is hereby made the duty of the defendant in error, or party holding the negative, if he desires to be heard, to file twelve copies of a like brief, printed with like compliance with Rule IV., as amended, within one hundred days after the filing of the petition in error.

SECTION 3. A copy of the printed record and of the brief of the plaintiff shall be served on defendant in error or his counsel forthwith; and the brief of defendant in error shall be served on opposite counsel forthwith upon the filing of the same. All reply briefs must be printed as required in sections 1 and 2 of this Rule and filed and served on opposite counsel within 120 days after the filing of the petition in error.

SECTION 4. Proof of service of all briefs shall be, immediately after the making of such service, filed with the Clerk. And failure to so file may be ground for the dismissal of the cause.

SECTION 5. Causes will be taken up for decision in their order on the docket, and not otherwise, except

on motion duly filed, and for special reasons, a cause may be taken out of its order and assigned for hearing or decision at a particular time, as authorized by sections 1475-76 General Code (440 R. S.). But proceedings in error to reverse, vacate or modify a conviction of a felony or misdemeanor will be advanced by the Court without motion, on the allowance of the filing of the petition.

SECTION 6. Any cause may be submitted, however, on behalf of either or both parties whatever may be its place on the docket. When a cause is reached on the docket and neither party appears in person, or by attorney, it shall be marked submitted and shall be disposed as the Court shall deem fit and proper according to the state and condition of the cause.

SECTION 7. All cases shall be assigned for hearing by the Chief Justice, and notice of such assignment shall be mailed by the Clerk to all counsel interested therein. No special request for oral argument need be filed. Should any of the parties desire, the case may be submitted on their behalf upon the record and briefs without oral argument.

SECTION 8. *Additional Authorities.* In all cases where the briefs filed in compliance with Sections 1, 2 and 3 do not contain all points and authorities intended to be relied upon on oral argument, counsel must, five days before the cause is set for hearing, furnish opposite counsel with a brief statement of any additional points and authorities intended to be presented; and eight copies thereof must be field with the Clerk the day before the oral argument. At the con-

clusion of the oral argument, time will not be given for the filing of briefs thereafter; and all cases assigned for oral argument must be submitted on the day they are assigned for such argument. *If such additional points and authorities are typewritten they must be original copies and should not be written on thin paper.*

SECTION 9. No motion to take a cause out of its order and advance it for hearing, will be entertained on the part of the plaintiff, until it is ready to be submitted by him, and when allowed, time will be given the defendant, not exceeding thirty days, in which to prepare and file his brief; nor, on the part of the defendant, until the record has been printed (unless dispensed with); and when allowed the brief of the plaintiff must be filed thirty days thereafter, and that of the defendant in twenty days after the expiration of the time allowed to the plaintiff. But in no case shall the provisions of this section extend the time shal the provisions of this section extend the time for the filing of briefs, as provided by Sections 1 and 2 of this rule.

SECTION 10. The sessions of the Court, on Thursday of each week, will be devoted to the business of the motion docket and business especially assigned.

SECTION 11. A motion shall not, without special leave of the Court, be orally argued beyond fifteen minutes on either side.

SECTION 12. An application for an extension of time in which to file a brief in any cause, must be by motion and on notice to the opposite party; and ten minutes wil be allowed each side on the hearing of

the motion. But it may be submitted by either upon a written statement of the reason for or against the delay.

SECTION 13. BRIEFS IN ORIGINAL ACTIONS. In original actions each party shall file with the Clerk a brief or argument containing a statement of the questions presented and a succinct statement of so much of the cause as is necessary to show how the questions arise, and containing copies of any sections of the General Code to be construed.

Provided, that such briefs may be either printed or typewritten; if printed, twelve copies complying with requirements of Rule IV shall be filed; if typewritten, eight copies shall be filed, all of which shall be original copies, and not be written on thin paper.

Service of said briefs shall be made upon opposing counsel forthwith, and proof of service filed with the Clerk.

RULE IIa.

Where, in causes and matters in which the Court has original jurisdiction, it is necessary to take testimony, application must be made to the Court and an order directing the method of taking testimony obtained.

RULE III.

ORAL ARGUMENT.

When a cause on the general docket is argued orally, the time allowed for each side shall not exceed one hour, unless, for special reasons to be adduced before the argument commences, the Court shall extend the time.

RULE IV.

PRINTING RECORDS, ETC.

No civil cause will be heard or considered, whether marked for oral argument or not, unless the plaintiff, or party holding the affirmative shall, within 60 days from the filing of petition in error, in compliance with Section 12254, General Code (6711 R. S.), have cause to be filed with the Clerk, for the use of the Court and Reporter, twelve printed copies of so much of the record, testimony and documents therein, as may be necessary to be considered by the Court, the same to be printed from eleven point (or small pica) type, double leaded, or twelve point (pica) type, single leaded, quotations solid, and in pamphlet form saddle stitched, and trimmed so as to be precisely six and one-quarter inches in width by nine and one-quarter inches in length (see Clerk's note) and suitable for binding, with headings in capital letters and sub-headings in bold-face type not less than eleven point, and with index, and in case any of said printed copies shall exceed one and one-quarter inches in thickness they shall be bound and numbered in two or more parts. The cover of each printed copy shall contain the number of the case, the title of this Court, the title of the cause, and in error cases the Court from which the cause is brought to this Court, and the names of the counsel. The cost of the printed record shall, upon filing of the printer's receipted bill, be taxed as costs in the cause; and for want of such printed copies, unless good reason be shown to the contrary, the cause will be dismissed for want of prosecution. It shall be the duty of the Clerk to

refuse to file and return to the parties presenting for filing any printed matter which does not conform to this rule.

A copy of the printed record shall be furnished to opposite counsel forthwith and proof of such service of records shall be filed with the Clerk.

This rule shall apply in cases filed on and after January 1st, 1911.

CLERK'S NOTE — The "Supreme Court of Ohio, Rules of Practice, January Term, A. D. 1921" in pamphlet form, are printed in eleven point (or small pica), double leaded, and the pamphlet is saddle stitched. The Opinions of the Court, in Volume 82, Ohio State Reports, are printed in twelve point pica type, single leaded, and this note is in eleven point (or small pica) type, solid.

RULE V.

PRINTING RECORDS, ETC.

It shall be the duty of the Clerk, on the written precipe of either party, his or their attorney to any suit pending in this Court, and on such party depositing with the Clerk such sum of money as may be reasonably necessary to defray the expenses, to make up from the files, in proper order to be printed for the purposes of the hearing or trial of a cause, a copy of the pleadings, exhibits, evidence and proceedings therein, preserving the date of the commencement of the action and the date of the filing of each pleading, dispensing with the formal captions, verifications and official certificates, where the same may not be material to the questions to be adjudicated, and to cause to be printed twenty copies thereof for the use of this

Court and the counsel in the cause; and the costs thereof, unless otherwise ordered by the Court, shall be taxed in the cost bill, and such disposition or application shall be made of the said deposit as to the Court shall seem equitable. Where the case is on error, the matter to be printed shall be indicated by the party filing the precipe, in accordance with RULE IV.

RULE VI.

POINTS DECIDED.

A syllabus of the points decided by the Court, in each cause, shall be stated in writing by the Judge assigned to prepare the opinion of the Court, which shall be confined to the points of law arising from the facts of the cause that have been determined by the Court.

And the syllabus shall be submitted to the Judges concurring therein, for revisal, before publication thereof; and it shall be inserted in the book of reports without alteration, unless by the consent of the Judges concurring therein.

RULE VII.

APPLICATION IN ERROR.

SECTION 1. When an application for leave to file a petition in error has been made in vacation to a Judge of the Supreme Court and disallowed, no other application therefor shall be made, except to the Court in session.

SECTION 2. NOTICE OF MOTION FOR LEAVE TO FILE PETITION IN ERROR. In cases where leave of the Court or a Judge to file a petition in error is required,

notice in writing of the intended application, briefly specifying the errors relied on, shall be given to the adverse party, or his attorney, at least ten days when made to the Court, and five days when made to a Judge, before the application shall be heard, unless, in view of special circumstances attending the case, the Court or Judge should determine that justice require the time of such notice to be abbreviated or such notice to be dispensed with.

A copy of such notice, with the proof of the service thereof, and petition in error, shall accompany the application.

RULE VIII.

MOTIONS TO CERTIFY RECORD.

SECTION 1. LIMITATION. Motions asking an order directing the Court of Appeals to certify its record must be filed with the Clerk within seventy days from the entry of judgment in the Court of Appeals.

SECTION 2. NOTICE OF MOTION TO CERTIFY RECORD. Ten days' notice shall be given to the adverse party of the filing and time of hearing of all motions asking for an order directing the Court of Appeals to certify its record, and proof of such notice must be filed with the Clerk before the motion can be heard. Provided, however, *that notice of the time of hearing may be waived, or, that such notice may state that the motion will be heard on a date to be fixed by the Clerk, who shall notify all counsel of the date the motion will be heard.*

NOTICE — Each motion must be accompanied by a fee of $2.00; each petition in error must be accompanied by a fee of $5.00.

SECTION 3. BRIEFS ON MOTIONS TO CERTIFY RECORD. With the motion to certify the record counsel for plaintiff in error shall file seven copies of a printed or typewritten brief, containing a statement of the questions presented and a short statement of so much of the case as may be necessary to show how the questions arise, *and if the construction of a statute is involved the brief shall contain a copy of such statute.*

Seven copies of a like brief shall be filed by counsel for defendant in error not less than five days before the date of hearing.

Service of all briefs shall be made upon opposing counsel forthwith, and proof of service filed with the Clerk.

Either party may file twelve copies of a printed brief upon the motion, which copies may thereafter be used as briefs upon the merits of the case, as specified in Rule II, should the motion to certify the record be granted.

All typewritten briefs must be original copies and should not be written on thin paper. The Clerk is directed to reject briefs that do not comply with this requirement.

SECTION 4. CLERK TO ISSUE ORDER, ETC. Upon the allowance of motion to certify up the record in any case, the Clerk shall issue an order to the Court of Appeals requiring such certification within thirty days from the allowance of the motion; and the plaintiff in error shall file his petition in error within thirty days from the allowance of the motion.

SECTION 5. CERTIFICATION BY COURT OF APPEALS BECAUSE OF CONFLICT. Where a record is certified to

this Court by a Court of Appeals for review, on the ground of conflict of its decision with that of another Court of Appeals, such record must be filed with the Clerk of this Court within seventy days from the entry of judgment in the Court of Appeals. The party against whom judgment has been rendered in the Court of Appeals, shall have the cause docketed, as in other cases.

In all such cases* the record shall be printed as required by Rule IV, and briefs as required by Rule II, Sections 1, 2 and 3.

The limitation of seventy days herein prescribed shall be in effect as to all cases so certified by the Court of Appeals, on and after May 1st, 1916.

RULE IX.

RETURN OF PAPERS.

After the decision of a cause in the Supreme Court, in which a final record is not required to be made in that Court, the original papers shall be returned to the Clerk of the proper Court; when so returned, the Clerk of the Supreme Court shall seal them up and direct them to the Clerk of such Court, and forward them as said Clerk may in writing direct. If not so directed within a reasonable time, they may be sent by express.

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* CLERK'S NOTE — The Court has directed that no petition in error be filed in cases docketed under Section 5.

RULE X.

FILES OF CAUSES DISPOSED OF.

The papers in causes heretofore or hereafter disposed of (and not returned to the counties or withdrawn by leave of the Court), shall be filed away in convenient packages by the Clerk, with a label on each package, on which shall be written or printed, "Cases Decided," "General Docket," or "Motion Docket" (as the causes may require), and also the term at which the same were disposed of, and the numbers or the causes in each package; which numbers shall correspond with those of the docket of said term.

The papers in causes on the General Docket shall be put in separate packages from those on the Motion Docket, and the papers of one term shall, as far as may be practicable, be kept in different pigeon holes or places of deposit from those of any other term.

REPORT OF CAUSES DISPOSED OF.

All causes disposed of on the General Docket without opinion, except such as are dismissed by the consent of parties, or for failure to file printed record, or for want of preparation, shall be published in the reports of decisions of this Court, by giving the style of the case, the character of the suit, the judgment of the Court, and the cases cited, if any, as authority for the decision, and the attorneys of the parties.

RULE XI.

THE MINUTE BOOK AND ITS CONTENTS.

There shall be kept by the Clerk a book, to be called the Minute Book, in which shall be separately entered every cause and motion hereafter docketed in this Court, except motions in pending causes, which latter motions shall be noted in their respective causes, but shall not be separately entered in said book, and also the date of docketing the same, and the payment of fees and by whom paid.

He shall also briefly note therein the issuing and date of all process sued out of this Court, the return day thereof, when returned, whether served or not, and the date of the service, if made; also, under the proper dates, the filing of all pleadings, depositions, briefs, or other papers that may be filed in the cause, in this Court; and briefly note all motions in the cause that may be placed on the Motion Docket; and all orders and judgments of this Court in the cause, with a reference to the journal and page where the same may be entered, and to the volume and page of the complete record thereof, if there be one.

He shall also note therein by whom and when any papers may be taken from his office, and when returned.

RULE XII.

WITHDRAWAL OF BRIEFS.

After a cause has been decided and reported, counsel may withdraw manuscript briefs from files.

RULE XIII.

WHEN RECORDS ARE TO BE COMPLETED.

In cases decided before the first of May in any term, if complete records therein are to be made in this Court, they shall be completed before the first day of the ensuing October.

RULE XIV.

ADMISSION TO THE BAR.

SECTION 1. Except as provided in Section 1703, General Code (560 R. S.), concerning persons who have been admitted and practiced in the highest court of another state, or in the Supreme Court of the United States, for a period of five years, no person shall be admitted to the bar except upon an examination and certificate of the Standing Committee on Examinations.

SECTION 2. There shall be appointed, to take effect on the first day of January, 1901 ten discreet and judicious attorneys and counselors-at-law to be known as the Standing Committee on Examinations. Two members of the committee shall be appointed for one year, two for two years, two for three years, two for four years, and two for five years. Their successors shall be appointed for a term of five years each.

SECTION 3. The Standing Committee shall hold an examination of applicants for admission to the bar in the city of Columbus, on the first Tuesday of each June and December. No other examinations will be held. Examinations must be conducted under the direction of the committee, a majority of whom shall

report in writing for or against the admission of each applicant.

SECTION 3a. No applicant shall be admitted to the bar unless a majority of the members conducting the examinations shall certify that they find him to have a competent knowledge of the law and to have sufficient general learning to discharge the duties of an attorney and counselor-at-law, and shall recommend his admission. Such certificate shall not be made unless the applicant has sustained on his written answers to the printed questions of the examiners an average grade of 75 per cent. on an examination embracing the following subjects: The law of real and personal property, torts, contracts, evidence, pleadings, partnership, bailments, negotiable instruments, agency, suretyship, domestic relations, wills, corporations, equity, criminal law, constitutional law, and the canons of professional ethics adopted by the Ohio State Bar Association, at its 30th annual meeting, 1909.

No one will be admitted to the examination who has not attained the age of twenty-one years. The printed interrogatories and the answers of applicants thereto shall be submitted to the Court with the report of the examiners, and, together with all certificates and papers required under this rule, shall be filed with the Clerk and preserved.

SECTION 4. RESPECTING REQUIREMENTS AS TO GENERAL LEARNING. No one shall be admitted to the examination whose educational attainments are not clearly shown to be equal to those indicated by the four-year course of study in a public high school of

this state of the first grade. Evidence of such attainments to be furnished by the applicant with his application for admission to the law examination, will be:

(a) A diploma or certificate of graduation from such high school, which certificate must show that such high school is a four-year high school of the first grade.

(b) A diploma from a college or university belonging to the Associated Colleges of Ohio.*

(c) A certificate of matriculation in the freshman year or a higher class in the academic department of such college or university.

(d) A diploma, or a certificate of matriculation in the freshman or a higher class in the academic department, from a college or university situate outside the state of Ohio whose standing is certified as "approved" by any of the Associated Colleges of Ohio.

(e) A certificate or diploma from an academy or other school which would, without examination or further inquiry or condition, admit the holder to the freshman or a higher class in the college of liberal arts in any one of the Associated Collges of Ohio. Such certificate or diploma to be certified thereon as "approved" b ythe proper officer of such college.

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* CLERK'S NOTE — The following are the Associated Colleges: Adelbert College; Antioch College; Baldwin-Wallace College; Buchtel College; Woman's College, Cleveland; Denison University, Granville; Heidelberg College, Tiffin; Hiram College; Kenyon College; Lake Erie College; Marietta College; Miami University; Mount Union College; Oberlin College; Ohio University; Ohio State University; Ohio Wesleyan University; Otterbein; Toledo University; Western College for Women, Oxford, Ohio; Wittenberg College; University of Cincinnati; University of Wooster.

(f) A certificate from the State Board of School Examiners authorizing the holder to teach in the high schools of the four-year grade of Ohio; a county board certificate is not sufficient.†

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† CLERK'S NOTE — As sufficient showing of general education any one of the following certificates or diplomas will be accepted:

A diploma with the degree of "A. B." from St. Mary's College, St. Ignatius College, St. Xavier College, St. Joseph College, St. John's College, Muskingum College, Ohio Northern University, St. Gregory College, of Cincinnati, Notre Dame University, Baldwin University or German Wallace College.

A diploma showing degree of "B. S." or graduation in the preparatory school of Ohio Northern University.

A diploma from the classical or scientific course of Lima College.

A diploma showing completion of the classical course of Bluffton College.

A certificate showing graduation from the classical or scientific course of National Normal University, now Lebanon University, Lebanon, Ohio; or graduation in the Preparatory School of Lebanon University.

A certificate of graduation in the High School Department of St. Mary's College.

A certificate of graduation in the High School Classical Course of Aquinas College (formerly St. Patrick's College).

A certificate showing graduation or matriculation in the Arts, Science or Law course of Toledo University.

A certificate showing graduation in the Academic Department of Scio College.

A certificate showing completion of the five years' course in St. Gregory's Seminary, Cincinnati, Ohio.

A certificate of matriculation in the freshman year, or a higher class in the academic department of any of the following institutions, to-wit: St. Ignatius College, St. Xavier College, St. John's College, St. Mary's College, Muskingum College, University of Notre Dame, Baldwin University or German Wallace College, and Case School of Applied Science.

A certificate of graduation from High School of Commerce of Cleveland provided it shows that the applicant has taken two years of German or French. (1913).

A certificate of graduation in Hughes High School of Cincinnati in Commercial Course No. 5. (1914).

(g) Applicants who do not present any of the above-stated evidences of educational attainments will be required to take an examination before the Standing Committee of the Court appointed for that purpose, whose certificate that the applicant's qualifications are equal to those required for high school graduates will be sufficient evidence of general learning, and the same shall be filed with the Clerk of the Court at least six days prior to the examination for admission. This committee will hold two sessions each year, at Columbus, Ohio, one on the third Tuesday of May and one on the third Tuesday of November. A fee of two dollars will be required to be paid to the Clerk of the Court by each applicant before entering such examination.

This requirement as to general education shall apply to all whose certificates of entrance upon the study of law are filed with the Clerk after December 31, 1900.

SECTION 5. Every resident of the state who commences the study of law on and after January 1, 1898, either under the tuition of an attorney-at-law, or at a law school, whether located in this state or elsewhere, shall file with the Clerk of the Supreme Court the certificate of such attorney or of the chief officer of such law school, as the case may be, showing his name, age

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† CLERK'S NOTE (Continued) —

A certificate of graduation from the University School, of Cleveland, Ohio. (1915).

A certificate showing graduation in Cleveland Y. M. C. A. High School Course or College Preparatory Course.

A certificate showing matriculation or graduation in Defiance College, or graduation in Preparatory Department of Defiance College.

and residence, and the date when he commenced the study of law, which certificates shall be accompanied by a fee of fifty cents. As to all such persons the three years' study of law required by section 1701 General Code (560 R. S.) shall date from the filing of such certificate.

SECTION 6. Every resident of this state who shall have commenced the study of law prior to January 1, 1898, shall on or before the first day of March, 1898, file with the Clerk a certificate of his preceptor, or of the chief officer of his law school, showing his name, age and residence, and the time when and the place where, and under yhom, he commenced the study of law, which certificate shall be accompanied by a fee of fifty cents.

SECTION 7. Every person who shall commence the study of law while a nonresident of this state, and who has not been regularly admitted as an attorney-at-law in some court of record within the United States, shall, on coming into this state to reside, file with the Clerk an affidavit showing that he has come into the state for the purpose of making it his permanent residence, and stating his name, age, present and former residence, and also the certificate of his preceptor, or of the chief officer of his law school, showing the time when, and place or places where, and under whom, he has studied law; which papers shall be accompanied by a fee of fifty cents.

The one year's residence in this state required of such persons by section 1701 General Code (560 R. S.) shall date from the filing of such papers.

SECTION 8. Every person entitled to be admitted to the examination under Section 1702, General Code, on the ground that he has been regularly admitted as an attorney and counselor at law in some court of record within the United States, shall, not more than sixty nor less than thirty days before the time fixed for the examination, file with the Clerk *the following credentials*:

1. An affidavit showing that he is a resident of this state or that he has come into the state for the purpose of making it his permanent residence, and stating his name, age and former and present residence.

2. His certificate of admission to the bar.

3. The certificate of a judge of the court of record in which he has practiced law, showing the time such judge has personally known him, *the period of time he has practiced law* and his moral and professional standing at such bar.

4. *Certificate of his preceptor or the law school which he attended showing the period of his study of law. (If the judge's certificate mentioned in No. 3 shows practice for three years or more this certificate is not required.)*

5. *Certificate of general learning as required by Section four of this rule.*

Said application shall be accompanied by an examination fee of $15.00 and registry fee of fifty cents.

SECTION 9. If the filing of any affidavit, certificate or other paper required by this rule has been omitted by excusable mistake or without fault, the court may order such filing as of the proper date.

SECTION 10. Except as provided in section 8, concerning persons who have been admitted to the bar in some court of record within the United States, every person who desires to have his name enrolled for examination must not more than sixty days nor less than thirty days before the time fixed for the examination, file with the Clerk his application for admission to the bar, giving his name, age, residence and postoffice address, and with such application the certificate of qualification required by section 1701 General Code (560 R. S.) or section 1705 General Code (561 R. S.), as the case may be. Each applicant for admission to such examination shall be required to state in an affidavit filed by him on his application for admission to such examination, that he has read the Canons of Professional Ethics, adopted by the Ohio State Bar Association July 7, 1909,* and has faithfully endeavored to make himself acquainted with the same, and that he will endeavor to conform his professional conduct thereto. Except as provided in sections 1704-5 General Code (561 R. S.) each applicant must produce a certificate of qualification as required by section 1701 General Code (560 R. S.), signed by his preceptor, and in no case will the certificate of any other attorney or counselor-at-law be received unless it be shown by the affidavit of the applicant that his preceptor is dead or that his certificate cannot, for some reason satisfactory to the court, be obtained. In case the length of study shown

* NOTE — Any student may obtain a copy of the American Bar Association publication containing above named Canons of Professional Ethics by application to the clerk of the Supreme Court.

by the certificate fall short, by sixty days or less of a full three years' course, a supplemental certificate may be presented by the applicant at the time of the examination, showing, with such former certificate, a full three years' study. And in every case the certificate must show that the certifier has personal knowledge of the length of time the applicant has been engaged in the study of law. The certificate shall also show the name and postoffice address of the applicant's preceptor.

SECTION 11. No certificate, affidavit or other paper produced in conformity with this rule shall be deemed conclusive evidence of the fact therein stated, and in all cases the court must be satisfied of the truth thereof before the applicant shall be admitted to examination.

SECTION 12. Every application for admission to an examination must be accompanied by an examination fee of $15.00, which will be returned to the applicant if his name is not placed on the axamination roll. If his name is placed on the examination roll, and he fails to receive a certificate of qualification, he shall not be required to pay any further sum upon a second application. For each subsequent application a fee of $15.00 shall be paid. If the applicant, on examination, shall be rejected, he may be admitted to the next examination upon filing a certificate that he has studied law six months subsequent to the date of his former examination; but no one shall be admitted to more than five examinations after the twentieth day of December, 1900, and the fifth examination shall not be less than two years after the fourth, and dur-

ing the intervening two years said applicant shall regularly and attentively study law, and shall furnish the prescribed certificate thereof.

SECTION 13. After the expiration of the thirtieth day before the examination the court will examine the papers filed by the applicant, and cause him to be notified whether he will be admitted to the examination unconditionally, or subject to the production of a supplemental certificate of additional study, when that may be necessary, and if so admitted, will cause his name to be placed on the examination roll which will be delivered to the Standing Committee.

SECTION 14. The Standing Committee may, subject to the approval of the court, make rules not inconsistent herewith, for the conduct of the examinations, which, together with this rule, shall be published in pamphlet form for distribution by the Standing Committee.

SECTION 15. The applicant upon receiving the oath of office, shall sign a roll showing the date of his admission and the place of his residence. The oath administered shall be as follows:

I DO SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of Ohio;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD.

SECTION 16. The Clerk shall enter the date of the filing of all papers under this rule, with a pertinent description of the same, in a record provided for that purpose, and shall enter all sums received under this rule in a cash book, showing the date, from whom and for what received, and shall pay the same out upon the order of the Chief Justice in payment of the expenses of the examinations, and for no other purpose. That is to say: costs of necessary printing and stationery; necessary janitor or messenger service; necessary hall rent, postage and express charges and other necessary expenses; to the first Deputy Clerk for each application for admission filed, $1.00, and also the registration fees paid under this rule; to each member of the Standing Committee $250.00 per

annum together with his necessary traveling expenses actually incurred in the work of said Committee; and to each member of the Committee on General Learning $40.00 for each session, and his necessary traveling expenses, actually incurred in the work of the Committee.

If the funds are not sufficient, such pro rata distribution shall be made as the funds will warrant.

SECTION 17. In all cases where the application for admission to the examination is found to be insufficient, and is returned to the applicant for correction, a fee of fifty cents must accompany each application thereafter.

The following form contains all that is necessary for the certificate by a preceptor mentioned in Rule XIV, section 10-12:

I hereby certify, That————is a citizen of the United States and of the state of Ohio; that he has resided in said state for one year last past; that he is over twenty-one years of age, of good moral character; that he has regularly and attentively studied law under my tuition for the period of————years, from————to————, previous to this application for admission; and that I believe him to be a person of sufficient knowledge and ability to discharge the duties of an attorney and counselor-at-law, and would therefore respectfully recommend his admission to the Bar.

————,

Dated at————. *Attorney-at-Law.*

SECTION 18. Admission to a law school, or to a law department of a university, is not matriculation within the meaning of section 4, of Rule XIV, as recently revised.

SECTION 19. Certificates of study given by schools known as correspondence law schools, or by lawyers without the state, certifying that the applicant has studied under their supervision within the state of Ohio, do not satisfy the Ohio statute and the rules respecting study ordered by the Supreme Court of Ohio, and such certificates will not be filed or in any way recognized.

SECTION 20. ADMISSION WITHOUT EXAMINATION.

An applicant for admission to the bar of Ohio without examination, under section 1703, General Code, must file with the Clerk the following credentials:

First. Certificate of admission as an attorney and counselor-at-law in the highest court of another state after two years' study of the law, and upon a regular examination, which study and examination must be shown either by a certificate of the facts or by a requirement thereof in the statute of such state.

Second. Certificate from the Judge of the Court *of Record* in which *the applicant* practiced, *that he is of good moral character* and that *he has been* an active practitioner *in good and regular standing,* in *the courts of* such state or in the Supreme Court of the United States for a period of not less than five years immediately preciding *his* removal to the state of Ohio.

This certificate must be authenticated by the Clerk of Courts under seal.

Third. Certificate of good moral character, and recommendation from some attorney-at-law of this state, that *the applicant* be admitted to the bar of Ohio.

Fourth. The affidavit of the applicant that he is a resident of this state, or has come into the state *for the purpose of making* it his permanent residence.

A fee of $15.50 must accompany the application.

SECTION 21. RULE RELATING TO FOREIGN ATTORNEYS.

Attorneys-at-law residing without the state of Ohio, not members of the bar of this state, who have been retained in any case assigned for oral argument, may be heard therein upon being presented to the Court by a member of the Bar of Ohio.

RULE XV.

PETITIONS IN CRIMINAL CASES.

A motion for leave to file a petition in error in a criminal cause, with the transcripts, together with the assignments of error, shall be filed with the Clerk at least five days before the same shall stand for hearing, unless, for good cause shown in any case, the Court otherwise order, and the proposed petition in error shall be submitted with the motion.

RULE XVI.

NOTICE OF MOTIONS.

No motion will be permitted to be placed upon the motion docket for hearing until proof of notice to

opposing counsel of the filing and time for hearing such motion is filed with the Clerk.

RULE XVII.

FILING OF MOTIONS.

A motion cannot be filed on the day set for its hearing, except by special leave of the Court.

RULE XVIII.

BRIEFS IN CRIMINAL CASES.

SECTION 1. A motion for leave to file a petition in error shall not be considered, unless counsel for the applicant file with the papers in the case 7 copies of either a printed or typewritten brief, containing a statement of the questions presented, and a short statement of so much of the case as may be necessary to show how the questions arise. And in all criminal cases, if leave is granted to file the petition in error, the clerk shall file the same instanter.

SECTION 2. In all criminal cases, the plaintiff in error within sixty days from the filing of the petition in error shall file with the Clerk twelve copies of a printed or typewritten brief containing a statement of the questions presented and the other matter required by Section 1 of Rule 2 herein. And the defendant in error shall, within ninety days after the filing of the petition in error, file with the Clerk a like number of printed or typewritten briefs with like references. But the Court, by special order, may fix a different period for filing said briefs.

SECTION 3. *All typewritten briefs, submitted under Sections 1 and 2 hereof must be original copies,*

and should not be written on thin paper. The Clerk is directed to reject briefs which do not comply with this requirement.

SECTION 4. The Docket Fee of $5.00 for every Cause and the Motion Fee of $2.00 for every motion must be paid in advance.

RULE XIX.

MOTION TO AFFIRM.

In all cases in which the judgment of the Court of Appeals reversing the judgment of the Court of Common Pleas, is wholly or partly on the ground that such judgment is not sustained by sufficient evidence, and a petition in error is filed in this Court upon the record of the Court of Appeals, a motion to affirm such judgment worthwith shall be entertained.

RULE XX.

REHEARINGS.

SECTION 1. No motion can be made or heard for rehearing. Application for a rehearing must be made within thirty days after the announcement of the decision. The application *may be either printed or typewritten,* and seven copies thereof filed with the Clerk, and must be confined strictly to reasons for a rehearing. No reargument of the cause on such application will be considered.

SECTION 2. *All typewritten applications must be original copies, and should not be written on thin paper. The Clerk is directed to reject applications which do not comply with this requirement.*

Rules Other Than Those Peculiar to the Supreme Court

RULE XXI.

MAKING UP RECORDS.

Record of cases decided shall be made as follows:

SECTION 1. In all cases in which the Supreme Court and Court of Appeals have original jurisdiction, a full record shall be made up.

SECTION 2. In cases in error in said Courts, no record shall be made, except at the request and costs of the party desiring the same to be done; but the papers in all such cases shall be carefully preserved, filed and labeled in packages, numbered with corresponding numbers upon the margin of the journal where the final orders, respectively, are made.

SECTION 3. In cases in error in which the Appellate Court reverses the judgment of the Court below, and orders further proceedings below to be had in the original case, the record afterward made up below shall contain the judgment of reversal and the further proceedings thereafter had in the Court below; but the files of the Appellate Court, upon which said order of reversal was had, shall not be recorded in the court below, except at the request and costs of the party desiring the same to be done.

RULE XXII.

PRESERVATION OF RECORDS AND FILES.

The Clerk of the Court shall be answerable for all records belonging to his office, and all papers filed in the Court; and they shall not be taken from his custody unless by special order of Court, or on the written consent of attorneys of record for all parties; but the parties may at all times have copies on paying the Clerk therefor.

RULE XXIII.

MANDAMUS.

A writ of mandamus, unless otherwise specially ordered, shall be served on or before the second Monday next after the date thereof; and the writ shall command the defendant, or defendants, to return and answer the same on or before the third Saturday after said second Monday at the place of the holding of the Court, to be named in the writ.

RULE XXIV. (REPEALED.)

CAUSES TAKEN UNDER ADVISEMENT, IN COURT OF APPEALS.

See Sec. 1517, General Code.
Supplement 1.

RULE XXV.

CONTINUANCE.

In all applications for the continuance of a cause in the Court of Appeals, and for a second continuance in the Common Pleas, on the ground of inability to

DATE DUE

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RULE XXVII.

DISBARMENT.

When an attorney has been disbarred, or suspended, from practice, by the judgment of a Court inferior to the Supreme Court, the Clerk of the Court rendering such judgment shall forthwith certify a copy of the entry thereof to the Clerk of the Supreme Court so that the Roll of Attorneys may be corrected accordingly.

The Ohio State University
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